

# **MEMORANDUM OF UNDERSTANDING**

Between the

**STATE OF OREGON  
OREGON WATERSHED ENHANCEMENT BOARD (OWEB)**

And the

**NATIONAL MARINE FISHERIES SERVICE (NMFS)**

Regarding

**Administration of the Pacific Coastal Salmon Recovery Fund**

## **Section 1: Statement of Purpose**

- 1.1 The intent of this Memorandum of Understanding (MOU) between the Oregon Watershed Enhancement Board, acting on behalf of the State of Oregon (hereinafter referred to as "OWEB" or "State"), and the National Marine Fisheries Service (NMFS) is to provide for the orderly and effective allocation of funding received by the State from the Pacific Coastal Salmon Recovery Fund (PCSRF) in accordance with 16 U.S.C. 3645(d)(2), Congressional appropriations reports and other PCSRF authorizations, and PCSRF performance goals. Specifically, this MOU addresses how PCSRF funds will be allocated only to eligible projects and activities that provide measurable benefits to the protection and restoration of salmonid species in Oregon.
- 1.2 OWEB will ensure that funding received from the PCSRF will be used to fund anadromous salmon and steelhead restoration and protection efforts in the State of Oregon. OWEB shall provide funding for salmon restoration projects and activities including planning, monitoring, research, habitat restoration and protection, and improving State and local capacity to implement local projects which directly support salmon restoration. Further, it is the intent of the parties to this MOU to encourage watershed enhancement and planning efforts that support recovery of native salmonids.

## **Section 2: Authority and Reference**

- 2.1 Nothing herein grants any party to this MOU powers and authorities that they do not otherwise possess under the constitutions, statutes, laws, and rules of the State of Oregon or of the United States.
- 2.2 Nothing herein limits or affects in any way the controlling authorities or obligations of the parties to this MOU.

- 2.3 NMFS enters into this MOU pursuant to authorities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) in furtherance of 16 U.S.C. 3645(d)(2). The authority for OWEB to enter into this MOU on behalf of the State of Oregon and to receive Federal grant funds is ORS 541.351 through ORS 541.401.

### **Section 3: Principles**

The following principles will be used to guide OWEB's allocation of funds received under the PCSRF grant:

- 3.1 All PCSRF funds received by the State will be allocated to further the goal of protecting and restoring anadromous salmon and steelhead species subject to provisions of the federal Endangered Species Act.
- 3.2 OWEB is committed to funding projects that are biologically and technically sound and further the PCSRF performance goals.
- 3.3 OWEB is committed to a process that is open and considers the interests of the public.
- 3.4 Funds received by the State from the PCSRF may be used by OWEB to fund watershed enhancement actions authorized by statute provisions found at ORS 541.377(5), ORS 541.378(1), ORS 541.397, ORS 541.399, and ORS 541.379(1), and defined by ORS 541.351. The selection process will be guided by criteria set forth in Section 5 in this MOU.

### **Section 4: Scientific Framework for Expenditures**

- 4.1 The State places a high priority on guiding restoration and enhancement efforts within a scientific framework. The Oregon Plan for Salmon and Watersheds provides this framework in Oregon, and institutions such as the Independent Multidisciplinary Science Team and an interdisciplinary monitoring team have been established to provide additional scientific support for implementation of the State's fish recovery and watershed enhancement efforts.
- 4.2 OWEB funding decisions occur in conjunction with and support of implementing the Oregon Plan for Salmon and Watersheds. In addition, OWEB utilizes interdisciplinary teams with specialized expertise in different scientific disciplines and specific knowledge of local factors to help assess applications for grant funds and make recommendations to the OWEB Board for decision.

### **Section 5: Project Selection Process**

- 5.1 Funds received by the State from the PCSRF will be administered under all applicable statutes, rules, and administrative procedures that govern OWEB's ongoing grant programs. All disbursements to governmental or private entities will be reviewed and approved by the OWEB Board which includes representatives from the following entities:

- Five Citizen Members
  - Tribal representative
  - Oregon Fish and Wildlife Commission representative
  - Oregon Water Resources Commission representative
  - Oregon Board of Forestry representative
  - Oregon Board of Agriculture representative
  - Oregon Environmental Quality Commission representative
  - Oregon State University Extension Service representative
  - U.S. Natural Resources Conservation Service representative
  - U.S. Forest Service representative
  - U.S. Bureau of Land Management representative
  - U.S. Environmental Protection Agency representative
  - National Marine Fisheries Service representative
- 5.2 Funds disbursed in response to grant applications will be reviewed for technical, ecological, and biological merits by existing regional, interdisciplinary teams. These regional review teams make project specific funding recommendations to the OWEB Board on every application to OWEB for grant funds for projects in Oregon.
- 5.3 All projects or funding decisions will be supported by findings establishing that the expenditure is consistent with the principles and the scientific framework set forth in Sections 3 and 4 of this MOU.
- 5.4 All funding proposals will be evaluated in conformance with OWEB administrative rules contained in OAR Chapter 695.
- 5.5 All projects funded by OWEB using PCSRF funds will be required to submit reports documenting expenditures of grant funds, and implementation, monitoring, and evaluation of the effectiveness of the funded project towards the goal of salmon protection and restoration.
- 5.6 Prior to proposing any allocation of PCSRF funds to Oregon state agencies, OWEB will consult with the NMFS Northwest Regional Administrator on the rationale and implications of such actions on salmon and steelhead recovery.
- 5.7 All state agency projects and activities identified for PCSRF funding will have demonstrable benefits to the restoration and conservation of native salmonid populations subject to the federal Endangered Species Act and their habitats. Descriptions of state agency projects and activities proposed for PCSRF funding will be submitted to NMFS prior to the commitment of PCSRF funds. NMFS will consider how PCSRF funds for agency projects and activities will contribute to the recovery of native salmonids, and advise OWEB on the appropriateness of such funding in furtherance of PCSRF goals.

## **Section 6: Administration**

- 6.1 OWEB is the lead agency and will be the PCSRF grant recipient, administer the State grant programs, and carry out the terms of this MOU on behalf of the State of Oregon.

- 6.2 No more than three percent of the federal funds allocated to the State from the PCSRF shall be used by OWEB for its administrative costs. As OWEB administers its grant program, the majority of the grant administration occurs prior to the disbursement of grant funds. Therefore, OWEB is allowed to draw down the PCSRF administrative funds as needed, so long as OWEB expends no more than three percent on PCSRF administration relative to the total federal direct costs at the end date of the grant award.
- 6.3 It is recognized that three percent is not sufficient funding for effective and expedient administration of a grant program or single activity of this size. Thus, OWEB will integrate administration of PCSRF funds received by the State into its grant administrative program. NMFS recognizes OWEB as a single indirect cost activity according to the OMB Circular A-87 Attachment B at 8.h (2) that states "no further documentation is required for the salaries and wages of employees who work in a single indirect cost activity." OWEB will document administrative costs charged to the State and administrative costs charged to the PCSRF with the submission of the SF 269 and 272 financial reports.
- 6.4 The State shall provide a 25 percent non-federal match on the PCSRF funds. It is not intended that OWEB document the non-federal match on a project specific basis. Rather, the requirement may be satisfied by an accounting format that documents the ratio of non-federal funds to PCSRF expenditures annually.

## **Section 7: Reporting and Monitoring**

- 7.1 OWEB shall report on the progress of salmon protection and restoration efforts funded through this MOU into the NMFS PCSRF database as data becomes available, or at least on a quarterly basis. OWEB shall update the PCSRF database with accurate descriptions and performance metrics for all PCSRF funded projects and activities, from their inception through their completion.
- 7.2 On a quarterly basis, the OWEB will download and complete the PCSRF fiscal verification report and submit it to NMFS.
- 7.3 OWEB shall comply with all applicable state laws and regulations in administering the PCSRF including distributing the funds and tracking expenditures.

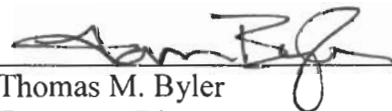
## **Section 8: Implementation**

- 8.1 This MOU shall be effective as of the date it is signed by all parties and shall remain in effect until all projects funded from the PCSRF have been completed, including any monitoring.
- 8.2 Federal PCSRF monies, contingent on availability, will be provided to OWEB through a Financial Assistance Award.

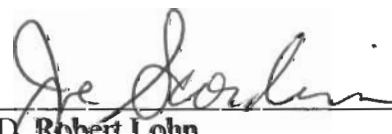
- 8.3 This MOU does not supersede any applicable Federal or State laws or regulations, nor does it exempt any funded projects from the requirements of the Endangered Species Act, including prohibitions against the "taking" of listed species.
- 8.4 NMFS has undertaken consultation, pursuant to Section 7 of the Endangered Species Act, on the action of executing this MOU and awarding a grant to OWEB.

### Section 9: Amendments

- 9.1 The MOU may be amended at any time by written agreement between the Executive Director of OWEB and the Regional Administrator of NMFS.
- 9.2 The obligations of the parties to this MOU are contingent upon appropriation of necessary funds by the Congress of the United States, with respect to NMFS; and the Oregon State Legislature, with respect to OWEB. The obligations of parties to this MOU are also subject to federal or state budgetary limitations that may arise.
- 9.3 In the event a dispute arises involving the terms of this MOU, the Regional Administrator of NMFS, the Executive Director of OWEB, and a representative of the Governor of the State of Oregon shall meet and resolve the matter.
- 9.4 This MOU is not intended to confer benefits upon, or be subject to enforcement by third parties.
- 9.5 If any part of this MOU is determined to be in violation of law, all other parts not so determined shall remain in full force and effect.

  
Thomas M. Byler  
Executive Director  
Oregon Watershed Enhancement Board

6/16/05  
Date

  
for D. Robert Lohn  
Regional Administrator  
Northwest Region, NMFS

6/21/05  
Date